

REMARKS

This Amendment is submitted in response to the Office Action mailed June 15, 2007. Claims 34-56 are pending. No new matter is added.

35 U.S.C. § 102 Rejections

Claims 34-36, 38, 41-47, and 56 are rejected under 35 U.S.C. § 102(b) as being anticipated by Minotti et al. (U.S. Patent No. 6,439,317).

With reference to claim 34, the Examiner holds that Minotti et al discloses a hammer assembly, including a housing, a substantially elongated hammer having first and second tool ends capable of extending through the lower opening end in the housing and including a drive mechanism.

The Examiner holds that Minotti et al discloses a substantially elongated hammer (the weight 16 in the figures) having first and second tool ends (Figure 12).

The applicants submit that the weight (16) does NOT have first and second tool ends, and indeed does not have ANY tool ends.

The surface breaking device disclosed by Figure 12 does not make reference to a tool or hammer at all. If the Examiner is referring to the tool (88) in combination with the weight (16) depicted in Figure 1, this could still not be considered to disclose a substantially elongated hammer having first and second tool ends at opposing longitudinal ends of the hammer - as claimed by the present invention.

The specification of the current patent application discusses the

disadvantages associated with drop hammers configured to utilise removable tool ends. Page 7 of the current specification reads:

"While drop hammers configured to cope with various types of materials do exist, there does not appear to be a single drop hammer device that allows many types of materials to be broken by the same piece of machinery without significant amounts of mechanical work or down time required to achieve this.

While it should be appreciated that some drop hammer devices could have the impact facet at the end of the hammer removed in order to either renew the tip or face, or to alternate between a wide and narrow impact face, the amount of stress and strain placed on any nuts or bolts in that region would be immense.

The likelihood of bolts or the like shearing through failure due to high impact loads would be greatly increased. This can be disadvantageous when there are deadline pressures or limited access to repair resources.

Another problem inherent with changeable tips is that a certain degree of expertise is required in order to ensure the new tip is correctly mounted in its seat and tension bolts having the appropriate tools to do so. Any misalignment of the new tip with the seat will result in rapid damage of the tip and loss of all precision of both the tip and seat mountings. " (Emphasis added).

One skilled in the art would appreciate Minotti et al includes all of these disadvantages, which the present invention seeks to avoid. It is the purpose of this application to provide a drop hammer with two tool ends that does not require the dismantling of the hammer itself in order to alternate between the

ends.

Further, Minotti et al does not discuss the possibility of utilising different types of tools to break up different surfaces. Throughout the specification, the breaking up of the surface is with exclusive reference to pavement.

Pages 6 to 8 of the current patent application discusses the need for a hammer to be easily configured to be used on differing surface materials. There is no indication that Minotti considers this, and as previously discussed it would be contrary to the purposes of this invention to modify the device in Minotti to receive different tool ends in order to do so.

Therefore, Applicants believe that claim 34 and its dependent claims are novel and inventive over the prior art cited.

Applicants, accordingly, respectfully requests withdrawal of the rejections of claims 34-36, 38, 41-47, and 56 under 35 U.S.C. § 102(b) as being anticipated by Minotti.

35 U.S.C. § 103 Rejections

Claims 34-36, 38-47 and 56 are rejected under 35 U.S.C. § 103(a) as being unpatentable over MacOnochie (U.S. Patent No. 4, 838, 363) in view of Minotti (6,439,317).

For at least the reasons set forth above, MacOnochie in view of Minotti do not show each and every limitation of the claims.

Applicant, accordingly, respectfully requests withdrawal of the rejections of claims 34-36, 38-47 and 56 under 35 U.S.C. § 103(a).

Applicant respectfully submits that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned at (408) 720-8300.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,

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